

2013 DRAFTING REQUEST

Bill

Received: 4/4/2013 Received By: phurley
Wanted: As time permits Same as LRB:
For: Jill Billings (608) 266-5780 By/Representing: Kathy Divine
May Contact: Kathy Bender-Olson Drafter: rnelson
Addl. Drafters:
Subject: Correctional System - jails
Correctional System - misc
Local Gov't - munis generally Extra Copies:

Submit via email: YES
Requester's email: Rep.Billings@legis.wisconsin.gov
Carbon copy (CC) to:

Pre Topic:

No specific pre topic given

Topic:

Allowing municipal prisoners to be sent out of state

Instructions:

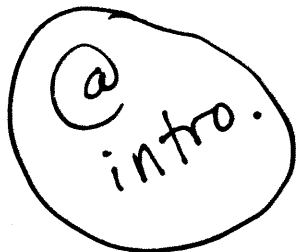
See attached

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/P1	rnelson 5/7/2013	scalvin 4/11/2013	phenry 4/12/2013	_____	mbarman 4/12/2013		Local
/1	phurley 9/17/2013	scalvin 5/8/2013	rschluet 5/8/2013	_____	lparisi 5/8/2013		Local
/2	phurley 10/17/2013	scalvin 9/19/2013	jmurphy 9/20/2013	_____	sbasford 9/20/2013		State S&L

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/3	phurley 12/11/2013	scalvin 10/29/2013	rschluet 10/29/2013	_____	srose 10/29/2013		State S&L
/4		evinz 12/11/2013	jmurphy 12/11/2013	_____	srose 12/11/2013	srose 12/11/2013	State S&L

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14 pcv
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Jim ~~res~~
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1/3 sac
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1/2 SAC
09/19/2013

Jim
9/19

Jim
9/20

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/P1	rnelson 4/9/2013	scalvin 4/11/2013	phenry 4/12/2013	_____	mbarman 4/12/2013		Local

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11 sac
05/08/2013

56 <END>

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May Contact: Kathy Bender-Olson

Leg Council

Drafter: rnelson

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see s. 303.08 - Huber law?

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/P1	rnelson	/P1 sac 04/11/2013	4/11/13 ph	ph/AM			
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FE Sent For:

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Hurley, Peggy

From: Divine, Kathy
Sent: Thursday, April 04, 2013 9:58 AM
To: Hurley, Peggy
Subject: RE: Legislative Assistance Needed - WI SS 800.095

Peggy,

Here is what I found out from legislative council:

Questions that I asked:

1. Do Muni's have the authority to contract with other states? Yes, they can for services under 66.0303(2)
2. If muni's contract for services, do they have to competitively bid? No, not for services under 66.0131(2). Only have to bid for public construction, 66.0901(1)(c)

--So with these questions addressed, it seems the only statutory problem that would limit this contract would be the statute Mr. Abraham mentions 800.0095 that prisoners need to be housed in the county of the crime.

Two other recommendations that we might need to address are...(we didn't want to address these yet, but if we need to while you are drafting please let me know)

1. Under statute, muni's can seek reimbursement from prisoners (SS 302.373). So might want specific language for if reimbursement for this is allowed, or what it is.
2. Distance of Prison. Currently there is no limitation on contracting with others for "services". So for this "service" might want to limit the distance.

From: Divine, Kathy
Sent: Thursday, April 04, 2013 9:45 AM
To: Hurley, Peggy
Subject: FW: Legislative Assistance Needed - WI SS 800.095

Hi Peggy,

I'm looking to draft a bill that would address the issue that it outlined below, regarding where municipal prisoners can be held. One additional item I would like added to any draft language would be something about that the municipality cannot relocate prisoners unless there is a significant costs savings, which at this point I guess we can define at 40%.

If you have further questions regarding this, please let me know. I do have some information from Leg Council from when I first started researching this if you need.

Thank you,

Kathy

Kathy Divine
Office of State Representative Jill Billings

Assembly District 95
State Capitol – 307W
608-266-5780
888-534-0095
kathy.divine@legis.wisconsin.gov

From: Abraham, Robert [<mailto:Abrahamr@cityoflacrosse.org>]
Sent: Monday, March 11, 2013 11:29 AM
To: Rep.Billings
Cc: Tischer, Ronald
Subject: Legislative Assistance Needed - WI SS 800.095

Representative Billings,

Good Morning! I am contacting you with the request to speak and/or meet with you concerning a situation that the La Crosse Police Department believes needs legislative action. Recently La Crosse County has raised the fees to house City of La Crosse municipal prisoners by 63%. We are now charged \$90.00 a day, versus the previous \$55.00 a day. However, Houston County, MN has informed us that they would be willing to house the City of La Crosse Municipal prisoners at the \$55.00/day rate and they would be willing to provide the transport to and from their facility.

The dilemma we now face is that Wisconsin State Statute 800.095(1)(b)(3) reads that municipalities are required to house prisoners "in the county in which the cause arose." This sentence is essentially not allowing us to contract with Houston County, thus spending more taxpayer dollars than is needed.

In speaking with the La Crosse County Sheriff's Department, due to their overcrowding issues, they welcome the possibility of having the City of La Crosse Municipal prisoners housed elsewhere. However based on Wisconsin State Statute 800.095(1)(b)(3) we are unable to seek more cost effective alternatives.

Your assistance is being sought to remedy this issue. Please feel free to contact me by email or phone so that we could discuss possible solutions to this issue. We have also reached out to your colleagues Rep. Danou, Rep. Doyle, as well as Sen. Shilling.

Thank you for your time!

Sincerely,

Robert Abraham

Robert Abraham, CPM

Asst. Chief of Police

La Crosse, WI Police Dept.

400 La Crosse Street

La Crosse WI, 54601

Desk 608-789-7203

"The Police are the public and the public are the police." -Sir Robert Peel

Hurley, Peggy

From: Divine, Kathy
Sent: Thursday, April 04, 2013 3:08 PM
To: Hurley, Peggy
Subject: FW: County Jail Inmates from Other Counties

From: Bender-Olson, Katherine
Sent: Wednesday, March 13, 2013 3:03 PM
To: Divine, Kathy
Subject: County Jail Inmates from Other Counties

Kathy,

You inquired whether counties can contract with one another for the housing of county jail inmates. The answer appears to be "yes." Under s. 66.0301 (2), Stats., "any municipality may contract with other municipalities" for the receipt or furnishing of "services." The definition of "municipality" for purposes of that section includes counties. [s. 66.0301 (1) (a), Stats.] Further, the housing and supervision of inmates would presumably constitute a "service" under the statute. Therefore, it appears that one county may contract with a second county to house county jail inmates.

Please let me know if you have any follow up questions.

Have a good afternoon,
Katie

Katie Bender-Olson
Wisconsin Legislative Council
(608) 266-2988
katie.bender-olson@legis.wisconsin.gov

Hurley, Peggy

From: Hurley, Peggy
Sent: Thursday, April 04, 2013 4:06 PM
To: 'katie.bender-olson@legis.wisconsin.gov'
Subject: Transfers to out of state prisons

Katie,

You may want to also take a look at s. 302.21, which allows DOC to transfer prisoners who are "committed to the custody of the department." I don't think persons in municipal jails are committed to the custody of the department, but I could be wrong about that. Also, s. 302.26, which requires the secretary of DOC to perform all duties relating to interstate transfers pursuant to 302.21 and 302.25. On the other hand, s. 302.31 (8) and (8m) seem to allow a county jail to house prisoners *from* other states, if there is a contract under 66.0303 to take in those prisoners. So perhaps it IS okay, under s. 66.0303, to enter into interstate contracts regarding prisoners. Very confusing! I appreciate your help in working through all this.

Peggy Hurley
Legislative Reference Bureau
608 266 8906

Nelson, Robert

From: Hurley, Peggy
Sent: Monday, April 08, 2013 9:58 AM
To: Divine, Kathy
Cc: Nelson, Robert
Subject: RE: Legislative Assistance Needed - WI SS 800.095

Hi Kathy,

Bob Nelson from our office will be taking over this draft. We are working with Katie Bender-Olsen at Leg Council to see if s. 302.25 (Interstate Corrections Compact), which guides interstate prisoner transfers, is a factor when it comes to municipal prisoners.

Peggy

From: Divine, Kathy
Sent: Thursday, April 04, 2013 9:45 AM
To: Hurley, Peggy
Subject: FW: Legislative Assistance Needed - WI SS 800.095

Hi Peggy,

I'm looking to draft a bill that would address the issue that it outlined below, regarding where municipal prisoners can be held. One additional item I would like added to any draft language would be something about that the municipality cannot relocate prisoners unless there is a significant costs savings, which at this point I guess we can define at 40%.

If you have further questions regarding this, please let me know. I do have some information from Leg Council from when I first started researching this if you need.

Thank you,

Kathy

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Representative Billings,

Nelson, Robert

From: Hurley, Peggy
Sent: Monday, April 08, 2013 3:58 PM
To: Bender-Olson, Katherine
Cc: Nelson, Robert
Subject: RE: Transfers to out of state prisons

Thanks, Katie. I handed this draft request to Bob Nelson, and he has done a bit of research as to the language used in the Compact and how it may relate (or not!) to municipal prisoners. If DOC doesn't have jurisdiction over municipal prisoners, as per the DOC liaison, maybe there's nothing that needs to be drafted regarding the compact anyhow.

In any event, I am forwarding this to Bob. I appreciate your assistance!

Peggy

From: Bender-Olson, Katherine
Sent: Monday, April 08, 2013 3:51 PM
To: Hurley, Peggy
Subject: RE: Transfers to out of state prisons

Peggy,

I took an initial look at this, and I agree that it is very confusing. I am particularly confused by the provisions that allow Wisconsin counties to contract with out-of-state counties pursuant to a municipal interstate agreement in s. 302.31 (8) and (8m), Stats. These sections don't reference DOC, the Secretary, or the Interstate Corrections Compact and they are not referenced in any of the other chapters – suggesting that counties could make these contracts and transfers without the involvement of the state.

I did leave a voicemail question for the DOC leg. Liaison about whether DOC has any involvement in prisoner transfers/contracts between Wisconsin counties and border counties pursuant to s. 66.0303, Stats. I have not talked to her, but she left me a message saying that DOC does not have any jurisdiction over municipal prisoners (at least, I think that's what she was saying).

I will let you know if I receive any clarification from DOC.

Take care,
Katie

From: Hurley, Peggy
Sent: Thursday, April 04, 2013 4:06 PM
To: Bender-Olson, Katherine
Subject: Transfers to out of state prisons

Katie,

You may want to also take a look at s. 302.21, which allows DOC to transfer prisoners who are "committed to the custody of the department." I don't think persons in municipal jails are committed to the custody of the department, but I could be wrong about that. Also, s. 302.26, which requires the secretary of DOC to perform all duties relating to interstate transfers pursuant to 302.21 and 302.25. On the other hand, s. 302.31 (8) and (8m) seem to allow a county jail to house prisoners *from* other states, if there is a contract under 66.0303 to take in those prisoners. So perhaps it IS

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1981 SENATE BILL 391

May 7, 1981 -- Introduced by Senator GOYKE. Referred to Committee on Education and State Institutions.

- 1 AN ACT to amend 20.435 (3) (a); and to create 53.18 (3), 53.25 and 53.26
2 of the statutes, relating to an interstate corrections compact and
3 making an appropriation.

Analysis by the Legislative Reference Bureau

This proposal is the interstate corrections compact. Passage of this proposal would make the provisions of the compact binding between Wisconsin and all other states which have ratified the compact. The chief provisions of the compact are:

(1) Each party state is authorized to make contracts with other party states for the confinement of inmates on behalf of the sending state within institutions in the receiving states. The contract will include provisions for the time period, payments and delivery and retaking of inmates.

(2) Officials within a sending state will have access to any institution where the sending state has a contractual right to confine inmates.

(3) Inmates confined in a receiving state in accordance with the compact will be subject to the jurisdiction of the sending state and may be removed to the sending state. A sending state would still have to honor financial obligations pursuant to the contract it entered into.

(4) Receiving states would be required to make regular reports to sending states regarding the conduct of inmates of the sending states.

(5) All inmates confined under the provisions of the compact must be treated humanely and be treated equally with similarly situated inmates of the receiving state.

(6) Hearings to which the inmate may be entitled may be had before authorities of the sending state. However, the sending state may authorize the receiving state to conduct the hearings.

(7) A receiving state may block the removal of a sending state inmate if there is a pending criminal charge against the inmate in the receiving state.

There are additional provisions specifying how various aspects of the compact would be implemented in Wisconsin. The general program operations appropriation for corrections is increased by \$14 million to implement,

administer and make payments under the compact. The secretary of health and social services has the authority to perform functions necessary and incidental to the compact. The secretary may delegate or redelegate any or all of that authority to any officer or employee of the department of health and social services. A Wisconsin inmate who is selected for transfer to another state will have a right to a hearing on the transfer. An inmate may also request such a transfer.

For further information, see the state and local fiscal estimate which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly,
do enact as follows:

1 SECTION 1. 20.435 (3) (a) of the statutes is amended to read:

2 20.435 (3) (a) General program operations. The amounts in the
3 schedule to operate institutions, make payments in accordance with
4 contracts entered into with other states party to the interstate
5 corrections compact under s. 53.25 and provide field services and
6 administrative services, including an amount to supplement the
7 appropriations made under par. (g).

8 SECTION 2. 53.18 (3) of the statutes is created to read:

9 53.18 (3) A prisoner who is selected to be transferred to a prison
10 in another state under s. 53.25 has a right to a hearing on the transfer
11 under ch. 227. Any prisoner may request the department to make such a
12 transfer.

13 SECTION 3. 53.25 of the statutes is created to read:

14 53.25 INTERSTATE CORRECTIONS COMPACT. The following compact, by and
15 between the state of Wisconsin and any other state which has or shall
16 hereafter ratify or legally join in the same, is ratified and approved:

17 INTERSTATE CORRECTIONS COMPACT

18 Article I

19 Purpose and Policy

forfeiture or superior conduct of the institution of the inmate himself in the duties of the institution or the following year: first month; fifth month; sixth month; regulation to perform subject to the first offense and 20 t offense.

(6) Allowances for good conduct earned in any institution shall be allowed in the institution to which an inmate may be transferred.

(7) (a) An inmate or parolee having served the term for which he or she has been sentenced for a crime committed after May 27, 1951, less good time earned under this chapter and not forfeited as provided in this section, shall be released on parole or continued on parole, subject to all provisions of law and department regulations relating to paroled prisoners, until the expiration of the maximum term for which he or she was sentenced without deduction of such good time, or until discharged from parole by the department, whichever is sooner. An inmate or parolee shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). Before a person is released on parole under this subsection, the department shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified.

(b) Any person on parole under this subsection may be returned to prison as provided in s. 57.06 (3) to serve the remainder of a sentence. The person may earn good time on the balance of the sentence while so in prison, subject to forfeiture thereof for misconduct as provided in this section. Subject to the approval of the department, the person may again be released on parole thereafter under either this section or s. 57.06, whichever is applicable. The remainder of the sentence shall be deemed to be the amount by which the original sentence was reduced by good time.

(8) Releases from the prisons, except those under ch. 57, shall be on the Tuesday or the Wednesday preceding the release date.

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266. The department cannot delegate to a review board the authority to forfeit good time; it cannot affirm the decision of such a board. *State ex rel. Farrell v. Schabert*, 52 W (2d) 351, 190 NW (2d) 529.

Due process requirements in a disciplinary proceeding listed. *Steele v. Gray*, 64 W (2d) 422, 219 NW (2d) 312. *Rehearing*.

A defendant convicted of a sex crime and committed to the department of health and social services for a mandatory examination not to exceed 60 days to determine whether he is in need of specialized treatment is not entitled to credit therefor against a maximum sentence thereafter imposed. *Mitchell v. State*, 69 W (2d) 695, 230 NW (2d) 884.

Subsequent to the revocation of parole, a mandatory release parolee—or a discretionary parolee whose mandatory release has occurred during his parole—is entitled at the discretionary determination as to how much of his good time will be forfeited to at least those due process procedures presently

time, whenever direct time or institutional time is used, under Art. I, sec. 1, citing *State ex rel. Hauser v. Carballo*, 82 W (2d) 51, 261 NW (2d) 133.

Inmate's procedural rights in disciplinary proceeding discussed. *State ex rel. Meeks v. Gagnon*, 95 W (2d) 115, 289 NW (2d) 357 (Ct. App. 1980).

Due process in disciplinary hearing requires record sufficient for judicial review. Major change in condition of confinement gives rise to minimum due process requirements under *Wolff v. McDonald*, 418 US 539. *State ex rel. Irbay v. Israel*, 95 W (2d) 697, 291 NW (2d) 643 (Ct. App. 1980).

The department is not at this time required by law to restore forfeited good time allowances or immediately to release anyone committed under the sex crimes act whose maximum term of commitment including forfeited good time has not expired. 61 Att'y. Gen. 77.

A prisoner released on parole is not entitled to an absolute discharge because this was granted other prisoners, in the absence of a showing of an abuse of discretion by the department. *Hansen v. Schmidt*, 329 F Supp. 141.

A prisoner is not entitled to counsel at a hearing at which his good time is forfeited for parole violation. *Sanchez v. Schmidt*, 352 F Supp. 628.

See note to 973.15, citing *Monsour v. Gray*, 375 F Supp. 786.

Prisoner whose parole was revoked on or about May 27, 1970 was entitled to a hearing prior to revocation of his good time credits under (2a). *Siliman v. Schmidt*, 394 F Supp. 1370.

53.12 Credit for diligence; earnings; reward of merit. (1) In addition to the credit for good conduct prescribed in s. 53.11, every inmate whose diligence in labor or study surpasses the general average is entitled to a diminution of time at the rate of one day for each 6 days during which he shows such diligence. The diminution shall be made under the rules of the department.

(2) The department may provide by rule for the payment of wages to inmates. The rate of such wages may vary for different prisoners in accordance with the pecuniary value of the work performed, willingness, and good behavior. The payment of wages to inmates working in the prison industries shall be governed by s. 56.01 (4).

(3) If by continued good conduct, diligence or otherwise, an inmate surpasses the general average, the department may provide by rules to compensate him therefor by the allowance of money.

(4) Money accruing under this section remains under the control of the department, to be used for the benefit of the inmate or his family or dependents, under rules prescribed by the department as to time, manner and amount of disbursements.

History: 1975 c. 396. Denying industrial good time to inmates sentenced to life imprisonment does not violate equal protection clause. *Parker v. Percy*, 105 W (2d) 486, 314 NW (2d) 166 (Ct. App. 1981).

53.13 Property of inmates; donations and transportation on discharge. The money and effects (except clothes) in possession of an

an amount of cash determined by department rules in addition to transportation or the means to procure transportation from the prison to any place in this state. If released on parole this amount shall be given under rules promulgated by the department.

History: 1973 c. 90.

53.14 Property of deceased inmates, parolees or probationers, disposition. When an inmate of a prison or a parolee of an institution or a person on probation to the department of health and social services dies leaving an estate of \$150 or less in the trust of the warden, the superintendent or the secretary, such warden, superintendent or secretary shall make effort to determine whether or not such estate is to be probated. If probate proceedings are not commenced within 90 days, the warden, the superintendent or the secretary is authorized and directed to turn over the money or securities in his hands to the nearest of kin as evidenced by the records of the institution and the department.

53.15 Activities of grounds. The wardens and superintendents of the state prisons, and all wardens and superintendents of county prisons, jails, camps and houses of correction enumerated in ch. 56, may take inmates away from the institution grounds for rehabilitative and educational activities approved by the department and under such supervision as the superintendent or warden deems necessary. While away from the institution grounds an inmate is deemed to be under the care and control of the institution in which he is an inmate and subject to its rules and discipline.

History: 1971 c. 54.

53.17 Register of inmates. When any inmate is received into any state penal institution the department shall register the date of admission, the name, age, nativity and nationality and such other facts as may be obtained as to parentage, education and previous history and environments of such inmate. Entries shall be made on the register of the progress made by each inmate and his parole and his condition at the time of parole and the progress made by him while on parole.

53.18 Transfers of inmates. (1) Inmates of a prison may be transferred and retransferred to another prison by the department.

(1m) Inmates transferred to the Wisconsin resource center shall be afforded a transfer hearing under s. 53.055.

(2) Inmates of the Milwaukee county house of correction may be transferred to a state prison. If any county discontinues its house of correction, inmates at the time of such discontinuance may be transferred to the state prison or to the county jail of the county as the commitment indicates.

(3) A prisoner may request the department to transfer him or her to a prison in another state under s. 53.25.

(4) With each person transferred to a state prison from another institution, the warden or superintendent of such other institution shall transmit the original commitment and the institutional record pertaining to such person.

(5) Any person who is legally transferred by the department to a penal institution shall be subject to the same statutes, regulations and discipline as if he had been originally sentenced to that institution, but the transfer shall not change the term of sentence.

History: 1981 c. 20.

53.185 Transfer to foreign countries under treaty. If a treaty is in effect between the United States and a foreign country, allowing a convicted person who is a citizen or national of the foreign country to transfer to the foreign country, the governor may commence a transfer of the person if the person requests.

History: 1981 c. 29.

53.19 Temporary detention of inmates. The department may use any of its facilities for the temporary detention of persons in its custody.

53.20 Uniforms for correctional officers. The department shall furnish and, from time to time replace, a standard uniform to be prescribed by the department including items of clothing (not including overcoats), shoulder patches, caps, lapel insignia, and badge to each correctional officer in the department who is required to wear such standard uniform.

53.21 Vocational education program in auto body repair at the Green Bay correctional institution. (1) The department may maintain and operate a vocational education

repaired, painted or otherwise processed by residents enrolled in the program.

(2) Prices for repairing, painting or otherwise processing vehicles in the program shall be fixed as near as possible to the market value of the labor and materials furnished. Proceeds received from the repairing, painting or other processing of vehicles shall be deposited as provided in s. 20.435 (3) (kk) and shall be available to the institution to purchase materials, supplies and equipment necessary to operate the vocational education program in auto body repair.

History: 1975 c. 224; 1977 c. 418; 1979 c. 34 s. 2102 (20) (a); 1981 c. 314 s. 146.

53.25 Interstate corrections compact. The following compact, by and between the state of Wisconsin and any other state which has or shall hereafter ratify or legally join in the same, is ratified and approved:

INTERSTATE CORRECTIONS COMPACT

(1) ARTICLE I - PURPOSE AND POLICY. The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

(2) ARTICLE II - DEFINITIONS. As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, the commonwealth of Puerto Rico;

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had;

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction

facility for the mentally ill or mentally defective, in which inmates may lawfully be confined.

(3) ARTICLE III - CONTRACTS. (a) Each party state may make one or more contracts for with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration;

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

4. Delivery and retaking of inmates;

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

(4) ARTICLE IV - PROCEDURES AND RIGHTS. (a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to sub. (3), shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2092/P1

RPN:/:.....

see

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*D Note
w/ attachments*

part 1

- 1 **AN ACT** *general*; **relating to:** allowing municipal prisoners to be imprisoned in a
2 bordering county of another state.

Analysis by the Legislative Reference Bureau

two Currently, if a person fails to pay a monetary judgment ordered by a municipal court, the court may suspend the person's motor vehicle operating privilege for up to 2 years under certain conditions, order the assignment of up to 25% of the person's earnings or other money due to the person to pay the judgment, order that the person be imprisoned for up to 90 days, with each day resulting in a credit of at least \$50 of the unpaid judgment, or a combination of these remedies. *25 percent*

If the court orders that the person be imprisoned, the court is required to commit the person to a jail or house of correction in the county in which the cause of action arose. Under this bill, if the court orders that the person be imprisoned, the court may order that the person be committed to a jail in a county in another state if all of the following requirements are met:

1. The county of the other state borders the county in which the cause of action arose.

2. The monthly expenses charged to the municipality by the county of the other state to imprison the defendant is less than 60% of the monthly expenses charged by the county in which the cause of action arose.

3. The county of the other state agrees to having the defendant committed to a jail in that county.

60 percent

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 800.095 (1) (b) 3. of the statutes is renumbered 800.095 (1) (b) 3. a. and amended to read:

800.095 (1) (b) 3. a. The Except as provided in subpar. b., the defendant shall be committed to a jail or a house of correction in the county in which the cause of action arose.

c. The defendant shall be eligible for privileges under s. 303.08 or a similar program in the other county if committed under subpar. b. The municipality shall pay the expenses incurred by the county to imprison the defendant.

Subd. 3.

History: 1987 a. 389; 1987 a. 399 s. 494u; 1989 a. 31; 1991 a. 40; 1995 a. 27; 1997 a. 84, 250; 1999 a. 9 ss. 3083m, 3263; 1999 a. 185; 2005 a. 192; 2009 a. 17, 402.

SECTION 2. 800.095 (1) (b) 3. b. of the statutes is created to read:

800.095 (1) (b) 3. b. The court may commit the defendant to the jail in a county of another state if the county of the other state borders the county in which the cause of action arose, the monthly expenses charged to the municipality by the county of the other state to imprison the defendant is less than 60% of the monthly expenses charged by the county in which the cause of action arose, and the county of the other state agrees to having the defendant committed to the jail in that county.

60 percent

History: 1987 a. 389; 1987 a. 399 s. 494u; 1989 a. 31; 1991 a. 40; 1995 a. 27; 1997 a. 84, 250; 1999 a. 9 ss. 3083m, 3263; 1999 a. 185; 2005 a. 192; 2009 a. 17, 402.

(END)

In 4/9
DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2092/P1dn

RPN:f.....

Sac

- date -

send to
following pages
w/ h DN

I have drafted this bill without referring to s. 302.25, 2011 Wis. stats., the Interstate Corrections Compact, which appears to control the transfer of inmates across state lines for confinement in a penal institution in another state. The language of that section and the definitions used in that section are very broad and appear to apply to all persons committed to a penal or correctional institution in this state.

5 I researched the history of this language and found that it was enacted in 1981 as part of the budget bill. The language of the analysis of the underlying draft bill that was folded into that budget bill parrots the language of the bill; it does not explain who was intended to be subject to the compact, other than inmates of penal or correctional institution. However, the language of adjacent sections of the chapter where this compact was placed, chapter 53, 1981 Wis. Stats., appears to use the term "inmate" to refer to persons confined in state correctional facilities, not persons confined in county jails. Attached are copies of pages from the 1981 bill and statutory chapter for your review.

5.

* Another current statutory section, 302.31 (8m), allows counties to make agreements with counties from other states that border this state to detain persons from the other state in this state's county jail, without any reference to s. 302.25.

I am aware of no cases that clarify this issue. My opinion is that the Interstate Corrections Compact does not apply to a person in a county jail who was ordered confined because of his or her failure to pay a municipal monetary judgment.

Robert Nelson
Legislative Attorney
Phone: (608) 266-9739
E-mail: robert.nelson@legis.wisconsin.gov

1981 SENATE BILL 391

May 7, 1981 -- Introduced by Senator GOYKE. Referred to Committee on Education and State Institutions.

PA - There's an
attachment to the
D-N - the next 4
pages in the file after
the D-N.

PA: these 4
clipped pages are
the attachment.

- 1 AN ACT to amend 20.435 (3) (a); and to create 53.18 (3), 53.25 and 53.26
2 of the statutes, relating to an interstate corrections compact and
3 making an appropriation.

Analysis by the Legislative Reference Bureau

This proposal is the interstate corrections compact. Passage of this proposal would make the provisions of the compact binding between Wisconsin and all other states which have ratified the compact. The chief provisions of the compact are:

(1) Each party state is authorized to make contracts with other party states for the confinement of inmates on behalf of the sending state within institutions in the receiving states. The contract will include provisions for the time period, payments and delivery and retaking of inmates.

(2) Officials within a sending state will have access to any institution where the sending state has a contractual right to confine inmates.

(3) Inmates confined in a receiving state in accordance with the compact will be subject to the jurisdiction of the sending state and may be removed to the sending state. A sending state would still have to honor financial obligations pursuant to the contract it entered into.

(4) Receiving states would be required to make regular reports to sending states regarding the conduct of inmates of the sending states.

(5) All inmates confined under the provisions of the compact must be treated humanely and be treated equally with similarly situated inmates of the receiving state.

(6) Hearings to which the inmate may be entitled may be had before authorities of the sending state. However, the sending state may authorize the receiving state to conduct the hearings.

(7) A receiving state may block the removal of a sending state inmate if there is a pending criminal charge against the inmate in the receiving state.

There are additional provisions specifying how various aspects of the compact would be implemented in Wisconsin. The general program operations appropriation for corrections is increased by \$14 million to implement,

administer and make payments under the compact. The secretary of health and social services has the authority to perform functions necessary and incidental to the compact. The secretary may delegate or redelegate any or all of that authority to any officer or employee of the department of health and social services. A Wisconsin inmate who is selected for transfer to another state will have a right to a hearing on the transfer. An inmate may also request such a transfer.

For further information, see the state and local fiscal estimate which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly,
do enact as follows:

1 SECTION 1. 20.435 (3) (a) of the statutes is amended to read:

2 20.435 (3) (a) General program operations. The amounts in the
3 schedule to operate institutions, make payments in accordance with
4 contracts entered into with other states party to the interstate
5 corrections compact under s. 53.25 and provide field services and
6 administrative services, including an amount to supplement the
7 appropriations made under par. (g).

8 SECTION 2. 53.18 (3) of the statutes is created to read:

9 53.18 (3) A prisoner who is selected to be transferred to a prison
10 in another state under s. 53.25 has a right to a hearing on the transfer
11 under ch. 227. Any prisoner may request the department to make such a
12 transfer.

13 SECTION 3. 53.25 of the statutes is created to read:

14 53.25 INTERSTATE CORRECTIONS COMPACT. The following compact, by and
15 between the state of Wisconsin and any other state which has or shall
16 hereafter ratify or legally join in the same, is ratified and approved:

17 INTERSTATE CORRECTIONS COMPACT

18 Article I

19 Purpose and Policy

time, whether street time or non-street time. See *Howe v. Art*, 1, sec. 1, citing *State ex rel. Hauser v. Carballo*, 82 W (2d) 51, 261 NW (2d) 133.

Inmate's procedural rights in disciplinary proceeding discussed. *State ex rel. Meeks v. Gagnon*, 95 W (2d) 115, 289 NW (2d) 357 (Ct. App. 1980).

Due process in disciplinary hearing requires record sufficient for judicial review. Major change in condition of confinement gives rise to minimum due process requirements under *Wolff v. McDonald*, 418 US 539. *State ex rel. Irby v. Israel*, 95 W (2d) 697, 291 NW (2d) 643 (Ct. App. 1980).

The department is not at this time required by law to restore forfeited good time allowances or immediately to release anyone committed under the sex crimes act whose maximum term of commitment including forfeited good time has not expired. 61 Atty. Gen. 77.

A prisoner released on parole is not entitled to an absolute discharge because this was granted other prisoners, in the absence of a showing of an abuse of discretion by the department. *Hansen v. Schmidt*, 329 F Supp. 141.

A prisoner is not entitled to counsel at a hearing at which his good time is forfeited for parole violation. *Sanchez v. Schmidt*, 352 F Supp. 628.

See note to 973.15, citing *Monson v. Gray*, 375 F Supp. 786.

Prisoner whose parole was revoked on or about May 27, 1970 was entitled to a hearing prior to revocation of his good time credits under (2a). *Silliman v. Schmidt*, 394 F Supp. 1370.

an amount of cash determined by department rules in addition to transportation or the means to procure transportation from the prison to any place in this state. If released on parole this amount shall be given under rules promulgated by the department.

History: 1973 c. 90.

(6) Allowances for good conduct earned in any institution shall be allowed in the institution to which an inmate may be transferred.

(7) (a) An inmate or parolee having served the term for which he or she has been sentenced for a crime committed after May 27, 1951, less good time earned under this chapter and not forfeited as provided in this section, shall be released on parole or continued on parole, subject to all provisions of law and department regulations relating to paroled prisoners, until the expiration of the maximum term for which he or she was sentenced without deduction of such good time, or until discharged from parole by the department, whichever is sooner. An inmate or parolee shall be given credit for time served prior to sentencing under s. 973.155, including good time under s. 973.155 (4). Before a person is released on parole under this subsection, the department shall so notify the municipal police department and the county sheriff for the area where the person will be residing. The notification requirement does not apply if a municipal department or county sheriff submits to the department a written statement waiving the right to be notified.

(b) Any person on parole under this subsection may be returned to prison as provided in s. 57.06 (3) to serve the remainder of a sentence. The person may earn good time on the balance of the sentence while so in prison, subject to forfeiture thereof for misconduct as provided in this section. Subject to the approval of the department, the person may again be released on parole thereafter under either this section or s. 57.06, whichever is applicable. The remainder of the sentence shall be deemed to be the amount by which the original sentence was reduced by good time.

(8) Releases from the prisons, except those under ch. 57, shall be on the Tuesday or the Wednesday preceding the release date.

History: 1977 c. 266, 353; 1979 c. 221; 1981 c. 266.

The department cannot delegate to a review board the authority to forfeit good time; it cannot affirm the decision of such a board. *State ex rel. Farrell v. Schubert*, 52 W (2d) 351, 190 NW (2d) 529.

Due process requirements in a disciplinary proceeding listed. *Steele v. Gray*, 64 W (2d) 422, 219 NW (2d) 312. Rehearing.

A defendant convicted of a sex crime and committed to the department of health and social services for a mandatory examination not to exceed 60 days to determine whether he is in need of specialized treatment is not entitled to credit therefor against a maximum sentence thereafter imposed. *Mitchell v. State*, 69 W (2d) 695, 230 NW (2d) 884.

Subsequent to the revocation of parole, a mandatory release parolee—or a discretionary parolee whose mandatory release has occurred during his parole—is entitled at the discretionary determination as to how much of his good time will be forfeited to at least those due process procedures presently

53.14 Property of deceased inmates, parolees or probationers, disposition. When an inmate of a prison or a parolee of an institution or a person on probation to the department of health and social services dies leaving an estate of \$150 or less in the trust of the warden, the superintendent or the secretary, such warden, superintendent or secretary shall make effort to determine whether or not such estate is to be probated. If probate proceedings are not commenced within 90 days, the warden, the superintendent or the secretary is authorized and directed to turn over the money or securities in his hands to the nearest of kin as evidenced by the records of the institution and the department.

53.15 Activities off grounds. The wardens and superintendents of the state prisons, and all wardens and superintendents of county prisons, jails, camps and houses of correction enumerated in ch. 56, may take inmates away from the institution grounds for rehabilitative and educational activities approved by the department and under such supervision as the superintendent or warden deems necessary. While away from the institution grounds an inmate is deemed to be under the care and control of the institution in which he is an inmate and subject to its rules and discipline.

History: 1971 c. 54.

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forfeiture or superin-conduct of the institution of the himself in the duties good time or the following: First year: three months; third months; fifth 6 months. regulation to perform subject to granted or r the first use and 20 stored. In ten or the department. good time. be eligible to be section may upon or part of his chap- f parole, for such ing good section, be con- rdless of when the or which d before of the sentence and while a parole poses of me may fified in

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(3) A prisoner may request the department to transfer him or her to a prison in another state under s. 53.25.

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History: 1981 c. 20.

53.185 Transfer to foreign countries under treaty. If a treaty is in effect between the United States and a foreign country, allowing a convicted person who is a citizen or national of the foreign country to transfer to the foreign country, the governor may commence a transfer of the person if the person requests.

History: 1981 c. 29.

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(2) Prices for repairing, painting or otherwise processing vehicles in the program shall be fixed as near as possible to the market value of the labor and materials furnished. Proceeds received from the repairing, painting or other processing of vehicles shall be deposited as provided in s. 20.435 (3) (kk) and shall be available to the institution to purchase materials, supplies and equipment necessary to operate the vocational education program in auto body repair.

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facility for the mentally ill or mentally defective, in which inmates may lawfully be confined.

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1. Its duration;

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance;

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom;

4. Delivery and retaking of inmates;

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

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(4) **ARTICLE IV - PROCEDURES AND RIGHTS.** (a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to sub. (3), shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2092/P1dn
RPN:sac:ph

April 12, 2013

I have drafted this bill without referring to s. 302.25, 2011 Wis. stats., the Interstate Corrections Compact, which appears to control the transfer of inmates across state lines for confinement in a penal institution in another state. The language of that section and the definitions used in that section are very broad and appear to apply to all persons committed to a penal or correctional institution in this state.

I researched the history of this language and found that it was enacted in 1981 as part of the budget bill. The language of the analysis of the underlying draft bill that was folded into that budget bill parrots the language of the bill; it does not explain who was intended to be subject to the compact, other than inmates of penal or correctional institutions. However, the language of adjacent sections of the chapter where this compact was placed, chapter 53, 1981 Wis. Stats., appears to use the term "inmate" to refer to persons confined in state correctional facilities, not persons confined in county jails. Attached are copies of pages from the 1981 bill and statutory chapter for your review.

Another current statutory section, s. 302.31 (8m), allows counties to make agreements with counties from other states that border this state to detain persons from the other state in this state's county jail, without any reference to s. 302.25.

I am aware of no cases that clarify this issue. My opinion is that the Interstate Corrections Compact does not apply to a person in a county jail who was ordered confined because of his or her failure to pay a municipal monetary judgment.

Robert Nelson
Legislative Attorney
Phone: (608) 266-9739
E-mail: robert.nelson@legis.wisconsin.gov

Nelson, Robert

From: Hurley, Peggy
Sent: Monday, April 15, 2013 11:26 AM
To: Bender-Olson, Katherine
Cc: Nelson, Robert
Subject: RE: Transfers to out of state prisons

Thanks, Katie. I am forwarding this on to Bob, who took over the drafting request from me. Interesting stuff!

From: Bender-Olson, Katherine
Sent: Monday, April 15, 2013 11:23 AM
To: Hurley, Peggy
Subject: FW: Transfers to out of state prisons

Peggy,

I finally connected with the DOC Leg. Liaison on the issue of Wisconsin municipal prisoners and the Interstate Corrections Compact.

First, the Leg. Liaison confirmed that DOC does not have any jurisdiction over municipal prisoners – provided that the prisoner is *only* being held on the basis of the municipal forfeiture and there aren't other probation or extended supervision conditions being violated.

Second, the Leg. Liaison also stated that DOC has no involvement in municipal interstate cooperation agreements for the holding of out-of-state prisoners from border counties in Wisconsin jails under s. 302.31 (8) and (8m), Stats. DOC does not get involved in the negotiation of these agreements and does not sign off on them (However, I'm not sure whether any such agreements are currently in place). This fact at least seems to support that a municipality could contract with an out-of-state county pursuant to a municipal interstate agreement (s. 66.0303, Stats.), without having to go through the state under the Interstate Corrections Compact.

I'm not sure this is helpful, but I wanted to report the response I received.

Thanks,
Katie

From: Bender-Olson, Katherine
Sent: Monday, April 08, 2013 3:51 PM
To: Hurley, Peggy
Subject: RE: Transfers to out of state prisons

Peggy,

I took an initial look at this, and I agree that it is very confusing. I am particularly confused by the provisions that allow Wisconsin counties to contract with out-of-state counties pursuant to a municipal interstate agreement in s. 302.31 (8) and (8m), Stats. These sections don't reference DOC, the Secretary, or the Interstate Corrections Compact and they are not referenced in any of the other chapters – suggesting that counties could make these contracts and transfers without the involvement of the state.

I did leave a voicemail question for the DOC leg. Liaison about whether DOC has any involvement in prisoner transfers/contracts between Wisconsin counties and border counties pursuant to s. 66.0303, Stats. I have not talked to

her, but she left me a message saying that DOC does not have any jurisdiction over municipal prisoners (at least, I think that's what she was saying).

I will let you know if I receive any clarification from DOC.

Take care,
Katie

From: Hurley, Peggy
Sent: Thursday, April 04, 2013 4:06 PM
To: Bender-Olson, Katherine
Subject: Transfers to out of state prisons

Katie,

You may want to also take a look at s. 302.21, which allows DOC to transfer prisoners who are "committed to the custody of the department." I don't think persons in municipal jails are committed to the custody of the department, but I could be wrong about that. Also, s. 302.26, which requires the secretary of DOC to perform all duties relating to interstate transfers pursuant to 302.21 and 302.25. On the other hand, s. 302.31 (8) and (8m) seem to allow a county jail to house prisoners *from* other states, if there is a contract under 66.0303 to take in those prisoners. So perhaps it IS okay, under s. 66.0303, to enter into interstate contracts regarding prisoners. Very confusing! I appreciate your help in working through all this.

Peggy Hurley
Legislative Reference Bureau
608 266 8906

Nelson, Robert

From: Divine, Kathy
Sent: Monday, May 06, 2013 3:18 PM
To: Nelson, Robert
Subject: RE: Draft review: LRB -2092/P1 Topic: Allowing municipal prisoners to be send out of state

Robert,

Can we change the amount to 25% instead of 60%?

Thank you,

Kathy

Kathy Divine
Office of State Representative Jill Billings
Assembly District 95
State Capitol – 307W
608-266-5780
888-534-0095
kathy.divine@legis.wisconsin.gov

From: LRB.Legal
Sent: Friday, April 12, 2013 8:46 AM
To: Rep.Billings
Subject: Draft review: LRB -2092/P1 Topic: Allowing municipal prisoners to be send out of state

Following is the PDF version of draft LRB -2092/P1 and drafter's note.



In 5/07
State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2092/11
RPN:sac:ph

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2013 Bill

Jan 11

- 1 AN ACT *to renumber and amend* 800.095 (1) (b) 3.; and *to create* 800.095 (1)
2 (b) 3. b. of the statutes; **relating to:** allowing municipal prisoners to be
3 imprisoned in a bordering county of another state.

Analysis by the Legislative Reference Bureau

Currently, if a person fails to pay a monetary judgment ordered by a municipal court, the court may suspend the person's motor vehicle operating privilege for up to two years under certain conditions, order the assignment of up to 25 percent of the person's earnings or other money due to the person to pay the judgment, order that the person be imprisoned for up to 90 days, with each day resulting in a credit of at least \$50 of the unpaid judgment, or a combination of these remedies.

If the court orders that the person be imprisoned, the court is required to commit the person to a jail or house of correction in the county in which the cause of action arose. Under this bill, if the court orders that the person be imprisoned, the court may order that the person be committed to a jail in a county in another state if all of the following requirements are met:

1. The county of the other state borders the county in which the cause of action arose.
2. The monthly expenses charged to the municipality by the county of the other state to imprison the defendant is less than ~~50~~ ²⁵ percent of the monthly expenses charged by the county in which the cause of action arose.
3. The county of the other state agrees to having the defendant committed to a jail in that county.

For further information see the **local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 800.095 (1) (b) 3. of the statutes is renumbered 800.095 (1) (b) 3. a. and amended to read:

800.095 (1) (b) 3. a. ~~The~~ Except as provided in subd. 3. b., the defendant shall be committed to a jail or a house of correction in the county in which the cause of action arose.

c. The defendant shall be eligible for privileges under s. 303.08 or a similar program in the other county if committed under subd. 3. b. The municipality shall pay the expenses incurred by the county to imprison the defendant.

SECTION 2. 800.095 (1) (b) 3. b. of the statutes is created to read:

800.095 (1) (b) 3. b. The court may commit the defendant to the jail in a county of another state if the county of the other state borders the county in which the cause of action arose, the monthly expenses charged to the municipality by the county of the other state to imprison the defendant is less than ~~60~~²⁵ percent of the monthly expenses charged by the county in which the cause of action arose, and the county of the other state agrees to having the defendant committed to the jail in that county.

(END)

Hurley, Peggy

From: Shovers, Marc
Sent: Tuesday, September 17, 2013 10:19 AM
To: Hurley, Peggy; Kuczenski, Tracy
Subject: FW: Follow-up to LRB 2092/1

Hello there:

Would this belong to one on you? It's Bob's draft and it's in ch. 800. Thanks.

Marc

From: Tenuta2, Christina
Sent: Tuesday, September 17, 2013 10:15 AM
To: Shovers, Marc
Subject: FW: Follow-up to LRB 2092/1

Dear Attorney Shovers,

The reference desk redirected me to you, in light of the fact that the drafter that had previously been helping us on this bill, Robert Nelson, will be out of the office for quite some time. Please see the email below for an update on where we are at in the drafting process. Is this something you think you can help with? If not, please let me know who might better be able to assist.

Thank you very much,

Christina

Representative Billings
95th Assembly District

From: Tenuta2, Christina
Sent: Tuesday, August 27, 2013 11:28 AM
To: Nelson, Robert
Subject: Follow-up to LRB 2092/1

Dear Attorney Nelson,

My name is Christina Tenuta and I've just joined Rep. Billings staff. My colleague, Kathy Divine, has asked me to takeover work on the legislation to house municipal prisoners in bordering counties of other states.

As I sift through prior correspondences, it looks as if the most recent question is whether the bill can be expanded to allow neighboring counties within Wisconsin to house municipal prisoners of other neighboring counties. In other words, broaden the scope of the bill to include both bordering counties of other states and bordering counties within Wisconsin.

Is this change possible? Would it conflict with any other statutes?

Thank you very much for your help.

Best,

Christina Tenuta
Representative Billings Office – 95th Assembly District
608-266-5780

From: Divine, Kathy
Sent: Tuesday, July 30, 2013 11:30 AM
To: Nelson, Robert
Subject: Redraft of LRB 2092/1

Robert,

I got the following comment back regarding the draft we have of LRB 2092. Is this something that could be addressed in the draft?

Kathy,

After going over the proposed language, it seemed very confusing, not only for me but for people much smarter than me! Another thought came to mind. What if a bordering county within our own state had room and wanted prisoners? The current and proposed language prohibits holding prisoners in a bordering county within our own state.

I took a crack at clarifying the language, especially the way the 25% was worded. I also added language that would allow for intrastate holding of prisoners.

Please review and if you agree, maybe you can pass this wording onto the correct people who drafted it.

SECTION 2. 800.095 (1) (b) 3. b. of the statutes is created to read:

800.095 (1) (b) 3. b. The court may commit the defendant to the jail in a bordering county or another state if the county of the other state borders the county in which the cause of action arose and the monthly expenses charged to the municipality by the ~~county of the other~~ bordering county or bordering county of another state to imprison the defendant is at least 25 percent less than the monthly expenses charged by the county in which the cause of action arose, and the bordering county or bordering county of the other state agrees to having the defendant committed to the jail in that county.
(END)

Kathy Divine
Office of State Representative Jill Billings
Assembly District 95
State Capitol – 307W
608-266-5780
888-534-0095
kathy.divine@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2092/1
RPN:sac:js

2m
PPM

2013 BILL

9-17-13

LPS: make marked change
in Topic on request sheet

gen cat

1 AN ACT *to renumber and amend* 800.095 (1) (b) 3.; and *to create* 800.095 (1)
2 (b) 3. b. of the statutes; **relating to:** allowing municipal prisoners to be
3 imprisoned in a bordering county of another state *within or outside of the state*

Analysis by the Legislative Reference Bureau

Currently, if a person fails to pay a monetary judgment ordered by a municipal court, the court may suspend the person's motor vehicle operating privilege for up to two years under certain conditions, order the assignment of up to 25 percent of the person's earnings or other money due to the person to pay the judgment, order that the person be imprisoned for up to 90 days, with each day resulting in a credit of at least \$50 of the unpaid judgment, or a combination of these remedies.

If the court orders that the person be imprisoned, the court is required to commit the person to a jail or house of correction in the county in which the cause of action arose. Under this bill, if the court orders that the person be imprisoned, the court may order that the person be committed to a jail in a county in another state if all of the following requirements are met:

Different
other

1. The county of the other state borders the county in which the cause of action arose.

2. The monthly expenses charged to the municipality by the county of the other state to imprison the defendant is less than 25 percent of the monthly expenses charged by the county in which the cause of action arose.

3. The county of the other state agrees to having the defendant committed to a jail in that county.

other

within or outside of the

other

BILL

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800.095 (1) (b) 3. a. The Except as provided in subd. 3. b., the defendant shall be committed to a jail or a house of correction in the county in which the cause of action arose.

c. The defendant shall be eligible for privileges under s. 303.08 or a similar program in the other county if committed under subd. 3. b. The municipality shall pay the expenses incurred by the county to imprison the defendant.

SECTION 2. 800.095 (1) (b) 3. b. of the statutes is created to read:

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(END)

Nelson, Robert

From: Tenuta2, Christina
Sent: Tuesday, August 27, 2013 11:28 AM
To: Nelson, Robert
Subject: Follow-up to LRB 2092/1

Dear Attorney Nelson,

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Is this change possible? Would it conflict with any other statutes?

Thank you very much for your help.

Best,

Christina Tenuta
Representative Billings Office – 95th Assembly District
608-266-5780

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To: Nelson, Robert
Subject: Redraft of LRB 2092/1

Robert,

I got the following comment back regarding the draft we have of LRB 2092. Is this something that could be addressed in the draft?

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After going over the proposed language, it seemed very confusing, not only for me but for people much smarter than me! Another thought came to mind. What if a bordering county within our own state had room and wanted prisoners? The current and proposed language prohibits holding prisoners in a bordering county within our own state.

I took a crack at clarifying the language, especially the way the 25% was worded. I also added language that would allow for intrastate holding of prisoners.

Please review and if you agree, maybe you can pass this wording onto the correct people who drafted it.

SECTION 2. 800.095 (1) (b) 3. b. of the statutes is created to read:

800.095-(1) (b) 3. b. The court may commit the defendant to the jail in a **bordering** county or another state if the county of the other state borders the county in which the cause of action arose **and** the monthly expenses charged to the municipality by the ~~county of the other~~ **bordering county** or **bordering county of another state** to imprison the defendant is at least 25 percent less than the monthly expenses charged by the county in which the cause of action arose, and the **bordering** county **or bordering county** of the other state agrees to having the defendant committed to the jail in that county.
(END)

Kathy Divine
Office of State Representative Jill Billings
Assembly District 95
State Capitol – 307W
608-266-5780
888-534-0095
kathy.divine@legis.wisconsin.gov

Nelson, Robert

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Sent: Tuesday, July 30, 2013 11:30 AM
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Please review and if you agree, maybe you can pass this wording onto the correct people who drafted it.

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(END)

Kathy Divine
Office of State Representative Jill Billings
Assembly District 95
State Capitol – 307W
608-266-5780
888-534-0095
kathy.divine@legis.wisconsin.gov



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2092/2
RPN&PJH:sac

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2013 BILL

10-17-13

gen cat

- 1 AN ACT *to renumber and amend* 800.095 (1) (b) 3.; and *to create* 800.095 (1)
- 2 (b) 3. b. of the statutes; **relating to:** allowing municipal prisoners to be
- 3 imprisoned in a bordering county within or outside of the state.

Analysis by the Legislative Reference Bureau

Currently, if a person fails to pay a monetary judgment ordered by a municipal court, the court may suspend the person's motor vehicle operating privilege for up to two years under certain conditions, order the assignment of up to 25 percent of the person's earnings or other money due to the person to pay the judgment, order that the person be imprisoned for up to 90 days, with each day resulting in a credit of at least \$50 of the unpaid judgment, or a combination of these remedies.

If the court orders that the person be imprisoned, the court is required to commit the person to a jail or house of correction in the county in which the cause of action arose. Under this bill, if the court orders that the person be imprisoned, the court may order that the person be committed to a jail in a different county within or outside of the state if all of the following requirements are met:

1. The other county borders the county in which the cause of action arose.
2. The monthly expenses charged to the municipality by the other county to imprison the defendant is less than 25 percent of the monthly expenses charged by the county in which the cause of action arose.
3. The other county agrees to having the defendant committed to a jail in that county.

at least

less than

BILL

For further information see the **state and local** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 [✓]
2 **SECTION 1.** 800.095 (1) (b) 3. of the statutes is renumbered 800.095 (1) (b) 3. a.
3 and amended to read:

4 800.095 (1) (b) 3. a. The Except as provided in subd. 3. b., the defendant shall
5 be committed to a jail or a house of correction in the county in which the cause of
6 action arose.

7 c. The defendant shall be eligible for privileges under s. 303.08: or a similar
8 program in the other county if committed under subd. 3. b. The municipality shall
9 pay the expenses incurred by the county to imprison the defendant.

10 [✓]
11 **SECTION 2.** 800.095 (1) (b) 3. b. of the statutes is created to read:

12 800.095 (1) (b) 3. b. The court may commit the defendant to the jail in another
13 county within or outside of the state if the other county borders the county in which
14 the cause of action arose, and the monthly expenses charged to the municipality by
15 the other county to imprison the defendant is less than 25 percent of the monthly
16 expenses charged by the county in which the cause of action arose, and the other
 county agrees to having the defendant committed to the jail in that county.

(END)

at least

less than



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-2092/8
RPN&PJH:sac/rs

Y
Mr
feev

2013 BILL

today
12-11

regen

- 1 AN ACT *to renumber and amend* 800.095 (1) (b) 3.; and *to create* 800.095 (1)
- 2 (b) 3. b. of the statutes; **relating to:** allowing municipal prisoners to be
- 3 imprisoned in a bordering county within or outside of the state.

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Currently, if a person fails to pay a monetary judgment ordered by a municipal court, the court may suspend the person's motor vehicle operating privilege for up to two years under certain conditions, order the assignment of up to 25 percent of the person's earnings or other money due to the person to pay the judgment, order that the person be imprisoned for up to 90 days, with each day resulting in a credit of at least \$50 of the unpaid judgment, or a combination of these remedies.

If the court orders that the person be imprisoned, the court is required to commit the person to a jail or house of correction in the county in which the cause of action arose. Under this bill, if the court orders that the person be imprisoned, the court may order that the person be committed to a jail in a different county within or outside of the state if all of the following requirements are met:

1. The other county borders the county in which the cause of action arose.
2. The monthly expenses charged to the municipality by the other county to imprison the defendant is at least 25 percent less than the monthly expenses charged by the county in which the cause of action arose.
3. The other county agrees to having the defendant committed to a jail in that county.

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SECTION 2. 800.095 (1) (b) 3. b. of the statutes is created to read:

800.095 (1) (b) 3. b. The court may commit the defendant to the jail in another county within or outside of the state if the other county borders the county in which the cause of action arose, and the monthly expenses charged to the municipality by the other county to imprison the defendant ^{are} ~~is~~ at least 25 percent less than the monthly expenses charged by the county in which the cause of action arose, and the other county agrees to having the defendant committed to the jail in that county.

(END)

Rose, Stefanie

From: Divine, Kathy
Sent: Wednesday, December 11, 2013 2:31 PM
To: LRB.Legal
Subject: Draft Review: LRB -2092/4 Topic: Allowing municipal prisoners to be sent out of state

Please Jacket LRB -2092/4 for the ASSEMBLY.